

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:)	
)	
<u>Van Eibergen Santhagens et al.</u>)	
)	
Serial No.: 10/588,433)	Group Art Unit: 3723
)	
Filed: August 4, 2006)	Examiner: Shantese L. McDonald
)	
For: SHAVING HEAD MEMBER)	
HAVING A BLADE SUPPORTING)	Board of Patent Appeals and
MEMBER WITH REDUCED)	Interferences
CROSS-SECTIONAL AREA)	
)	
)	
)	
Confirmation No.: 8808)	

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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

In support of the Notice of Appeal filed on May 8, 2009 and pursuant to 37 C.F.R. § 41.37, Appellants present this Appeal Brief in the above-captioned application.

This is an appeal to the Board of Patent Appeals and Interferences from the Examiner's final rejection of claims 1-6 in the Final Office Action dated April 14, 2009. The appealed claims are set forth in the attached Claims Appendix.

1. Real Party in Interest

This application is assigned to Koninklijke Philips Electronics N.V., the real party in interest.

2. Related Appeals and Interferences

There are no other appeals or interferences that would directly affect, be directly affected, or have a bearing on the instant appeal.

3. Status of the Claims

Claims 1-6 have been rejected in the Final Office Action. The final rejection of claims 1-6 is being appealed.

4. Status of Amendments

All amendments submitted by Appellants have been entered.

5. Summary of Claimed Subject Matter

The present invention, as recited in independent claim 1, is directed to a shaving head comprising at least two blade-shaped cutting members each having a straight cutting edge extending parallel to a longitudinal direction of the shaving head. (See Specification, p. 4, ll. 1-15, and Fig. 1). Each cutting member is supported in a cartridge of the shaving head by a supporting member supporting the respective cutting member in a supported area on the respective cutting member. (See Specification, p. 4, ll. 16-25, and Fig. 2). Said supported area extends over a predetermined distance perpendicular to the longitudinal direction. (See Specification, p. 4, ll. 25-30, and Fig. 2). Each supporting member has a first portion in contact with said supported area remote from the cutting edge of the respective cutting member and a second portion in contact with said supported area near the cutting edge of the respective cutting member. (See Specification, p. 4, l. 31 to p. 5, l. 3, and Fig. 2). Said first portion has a uniform cross-sectional area, seen perpendicularly to the longitudinal direction, and said second portion has a reduced cross-sectional area compared to the uniform cross-sectional area of the first portion. (See Specification, p. 5, ll. 3-12, and Fig. 2). Wherein the second portion of the

supporting member of at least one of the cutting members extends over at least half of said predetermined distance. (See Specification, p. 5, ll. 13-22, and Fig. 2).

6. Grounds of Rejection to be Reviewed on Appeal

I. Whether claims 1,2,4, and 6 are unpatentable under 35 U.S.C. § 102(b) over International Publication No. WO 01/39937 to Santhagens van Eibergen et al. (hereinafter “Eibergen”).

II. Whether claims 3 and 5 are unpatentable under 35 U.S.C. § 103(a) over Eibergen in view of United States Patent No. 5,822,862 to Ferraro (hereinafter “Ferraro”).

7. Argument

I. The Rejection of Claims 1, 2, 4, and 6 Under 35 U.S.C. § 102(b) Over Eibergen Should Be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 1, 2, 4, and 6 under 35 U.S.C. § 102(b) as being unpatentable over Eibergen. (See 4/14/09 Office Action, p. 2-3).

In the Final Office Action, the Examiner asserts that Eibergen teaches a shaving device having a grip and a shaving head which is releasably mounted to the grip, (See Eibergen, p. 5, ll. 10-11), the shaving head comprising at least two blade shaped cutting members, each having a strait cutting edge extending parallel to a longitudinal direction of the shaving head, each cutting member being supported in a cartridge of the shaving head by means of a supporting member supporting the respective cutting member in a supported area on the respective cutting member, the supported area extending over a predetermined distance perpendicular to the longitudinal direction, and each supporting member having a first portion in contact with the supported area remote from the cutting edge and a second portion in contact with the supported area near the cutting edge (See 4/14/09 Office Action, p. 3, figure), the first portion having a basic cross sectional area , seen perpendicularly to the longitudinal direction, and the second portion having a reduced cross-sectional area characterized in that the second

portion of the supporting member of each cutting member extends over at least half of the predetermined distance. (See 4/14/09 Office Action, p. 3, figure).

The Examiner bases the rejection on Eibergen's Fig. 2. In order to compare Eibergen Fig. 2 with the modifications made by the Examiner in the 4/14/09 Office Action, both figures are reproduced below:

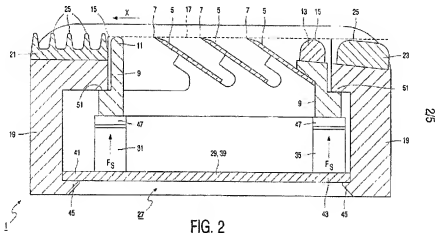
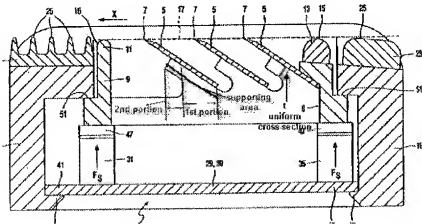


Figure 2 as it appears in Eibergen



- B. The Cited Publication Does Not Disclose The Second Portion Of The Supporting Member Of At Least One Of The Cutting Members Extends Over At Least Half Of Said Predetermined Distance, As Recited In Claim 1.

Claim 1 recites, “a shaving head comprising at least two blade-shaped cutting members each having a straight cutting edge extending parallel to a longitudinal direction of the shaving head, each cutting member being supported in a cartridge of the shaving head by a supporting member supporting the respective cutting member in a supported area on the respective cutting member, said supported area extending over a predetermined distance perpendicular to the longitudinal direction, and each supporting member having a first portion in contact with said supported area remote from the cutting edge of the respective cutting member and a second portion in contact with said supported area near the cutting edge of the respective cutting member, said first portion having a uniform cross-sectional area, seen perpendicularly to the longitudinal direction, and said second portion having a reduced cross-sectional area compared to the uniform cross-sectional area of the first portion, *wherein the second portion of the supporting member of at least one of the cutting members extends over at least half of said predetermined distance.*” The Examiner asserts that the above recitation of claim 1 is taught in Eibergen. (See 4/14/09 Office Action p. 2-5). Appellants respectfully disagree.

The Examiner asserts that Eibergen discloses “wherein the second portion of the supporting member of at least one of the cutting members extends over at least half of said predetermined distance.” (See 4/14/09 Office Action p. 4-5, and modified figure 2).

In modified figure 2, the Examiner has identified both the first portion and the second portion of the supporting member. The Examiner’s modified figure shows that the length of the second portion is much smaller than the length of the first portion. It also shows that the length of the first portion takes up more than half of the supported area. (See 4/14/09 Office Action p. 3, modified figure 2). The Examiner then asserts that the length of the *second* portion extends over at least half of the supported area. (See 4/14/09 Office Action p. 5).

The Examiner, in modified figure 2, shows that the second portion *does not* extend over at least half of the supported area. In fact, the area is considerably smaller than the area of the first portion, and appears to be about one-third of the supported area. The Examiner then asserts that this same picture shows that the second portion *does* extend over at least half of the supported area. This is simply not possible. The modified figure 2 shows that the second portion, being smaller than the first portion, cannot extend over at least half of the predetermined length.

The Appellants understand that in normal circumstances distances from figures are not to be used unless the figures indicate that they are to scale. However, in this case, it is the Examiner who is asserting specific distances from the figures. The Appellants are merely refuting the Examiners' contentions based on the Examiner's mark-up of the prior art drawings and the relative distances in those drawings. The Appellants further point out that the Examiner is basing the rejection on the drawings because there is no written description within Eibergen that supports the Examiner's contention.

Moreover, the Examiner has delineated an area of uniform cross sectional area and designated it as "t" in the supporting area of the rightmost blade. (See 4/14/09 Office Action p. 5, and modified figure). As recited in claim 1, "said first portion ha[s] a uniform cross-sectional area." Thus, the area of uniform cross section referred to by the Examiner must be included in what the Examiner is defining as the first portion in order to meet the recitation of claim 1. Thus, in order to include this uniform cross sectional area in the first portion, the second portion must necessarily be even smaller than shown by the Examiner when defining the first and second portion.

Thus, Eibergen does not disclose "the second portion of the supporting member of at least one of the cutting members extends over *at least half* of said predetermined distance" as recited in claim 1. Because claims 2, 4, and 6 depend from, and therefore include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the same reasons given above with respect to claim 1.

II. The Rejection of Claims 3 and 5 Under 35 U.S.C. § 103(a)
Over Eiberger in view of Ferraro Should Be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 3 and 5 under 35 U.S.C. § 103(a) as obvious under Eiberger in view of Ferraro. (See 4/14/09 Office Action, p. 3-4).

Ferraro comprises a shaving system that has at least one, and preferably a plurality of, resilient supports, and a plurality of blades movably arranged in spaced relation and rigidly connected to the resilient supports. (See Ferraro, col. 1, ll. 46-50). The plurality of supports are spaced across the blades. (See Ferraro, fig. 1). A small portion of support 79 has a rounded shape, and is attached to the blade. (See Ferraro, fig. 6).

B. The Cited Publication Does Not Disclose The Second Portion Of The Supporting Member Of At Least One Of The Cutting Members Extends Over At Least Half Of Said Predetermined Distance, As Recited In Claim 1.

Claim 1 recites, “a shaving head comprising at least two blade-shaped cutting members each having a straight cutting edge extending parallel to a longitudinal direction of the shaving head, each cutting member being supported in a cartridge of the shaving head by a supporting member supporting the respective cutting member in a supported area on the respective cutting member, said supported area extending over a predetermined distance perpendicular to the longitudinal direction, and each supporting member having a first portion in contact with said supported area remote from the cutting edge of the respective cutting member and a second portion in contact with said supported area near the cutting edge of the respective cutting member, said first portion having a uniform cross-sectional area, seen perpendicularly to the longitudinal direction, and said second portion having a reduced cross-sectional area compared to the uniform cross-sectional area of the first portion, *wherein the second portion of the supporting member of at least one of the cutting members extends over at least half of said predetermined distance.*” The Examiner asserts that the above recitation of claim 1 is taught in Eiberger in view of Ferraro. (See 4/14/09 Office Action p. 3-5). Appellants respectfully disagree.

The Examiner refers to Ferraro's support 79 as a "wedge-shaped supporting or second portion." (See 4/14/09 Office Action p. 3). Ferraro's fig. 6 shows a cross-section of support 79. In this figure, the rounded portion closer to the blade's edge could be considered the "second portion" referred to by the Examiner. It is apparent from this figure that the rounded portion consists of less than half of the supported area. Thus, Ferraro does not disclose "the second portion of the supporting member of at least one of the cutting members extends over *at least half* of said predetermined distance" as recited in claim 1. Nor does Ferraro cure the above mentioned defects in regards to Eibergen. Because claims 3 and 5 depend from, and therefore include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the same reasons given above with respect to claim 1.

Conclusion

For the reasons set forth above, Appellants respectfully request that the Board reverse the rejection of the claims by the Examiner under 35 U.S.C. § 102(b) and 103(a), and indicate that claims 1-6 are allowable.

Respectfully submitted,

Date: July 2, 2009

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CLAIMS APPENDIX

1. (Previously Presented) A shaving head comprising at least two blade-shaped cutting members each having a straight cutting edge extending parallel to a longitudinal direction of the shaving head, each cutting member being supported in a cartridge of the shaving head by a supporting member supporting the respective cutting member in a supported area on the respective cutting member, said supported area extending over a predetermined distance perpendicular to the longitudinal direction, and each supporting member having a first portion in contact with said supported area remote from the cutting edge of the respective cutting member and a second portion in contact with said supported area near the cutting edge of the respective cutting member, said first portion having a uniform cross-sectional area, seen perpendicularly to the longitudinal direction, and said second portion having a reduced cross-sectional area compared to the uniform cross-sectional area of the first portion, wherein the second portion of the supporting member of at least one of the cutting members extends over at least half of said predetermined distance.

2. (Previously Presented) A shaving head as claimed in claim 1, wherein the second portion of the supporting member of each cutting member extends over at least half of said predetermined distance.

3. (Previously Presented) A shaving head as claimed in claim 1, wherein the second portion is a wedge-shaped portion.

4. (Previously Presented) A shaving head as claimed in claim 1, wherein the second portion is a toothed portion.

5. (Previously Presented) A shaving head as claimed in claim 4, wherein the toothed portion comprises wedge-shaped teeth.

6. (Previously Presented) A shaving device having a grip and a shaving head releasably mounted to the grip, wherein the shaving head is a shaving head as claimed in claim 1.

EVIDENCE APPENDIX

No evidence has been entered or relied upon in the present appeal.

RELATED PROCEEDING APPENDIX

No decisions have been rendered regarding the present appeal or any proceedings related thereto.